



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 080014

Petitioners, Lixin Liu and Qun Wu, applied to the Building Commissioner for permission to remove porches and construct an addition at 275 Tappan Street. The application was denied and an appeal was taken to this Board.

On 1 May 2008, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed 5 June 2008, at 7:15 p.m. on the 2nd floor of the Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on 15 and 22 May 2008 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: LIXIN LIU & QUN WU

Location of Premises: **275 TAPPAN STREET BRKL**

Date of Hearing: **06/05/2008**

Time of Hearing: **7:15 p.m.**

Place of Hearing: **Main Library, 2nd. floor**

A public hearing will be held for a variance and/or special permit from

1. **5.43; Exceptions to Yard and Setback Regulations, Special Permit Required.**
2. **5.60; Side Yard Requirements, Variance Required.**
3. **8.02.2; Alteration or Extension, Special Permit Required**

of the Zoning By-Law to remove existing porches and to construct an addition per plans at **275 TAPPAN ST BRKL**

Said Premise located in a T-6 district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chair, Jesse Geller and Board Members Robert DeVries and Jonathan Book. The petitioners, Lixin Liu and Qun Wu, who reside at the subject property presented the case before the Board.

Ms. Wu described their home as a two-and-a-half story, two-family brick dwelling with a two-car garage on the basement level. She said that the surrounding properties are residential and include primarily two-family dwellings. The grade rises in elevation from the front lot line towards the rear. The front of the yard is paved and has retaining walls to allow parking access

to the garage. She said that they wish to remove an existing two-story wood porch structure and construct a two-story addition in its place on the side of the dwelling. The addition would be 11 feet wide by 19 feet deep with windows on each side. The new space would provide for two new bedrooms, one for each dwelling unit. Ms. Wu indicated an initial desire to finish the addition's exterior with vinyl siding, but they are open to other siding options that have relatively low maintenance costs, such as hardiplank clapboard siding or a similar material.

The Chair asked whether anyone wished to speak in favor or against the proposal and no-one responded. Ms. Wu did supply the Board with a letter from their direct abutters at 261 Tappan Street. Edwin and Irene Hertz stated in their letter that they understood the addition to be 11 feet in width by 19 feet in length and approximately 6 feet from the property line. They stated further that they "have no problem with the construction of the new addition". The letter was read into the record and given to the Clerk.

Michael Shepard representing the Planning Department delivered the findings:

Section 5.60 – Side Yard Requirements

Section 8.02.2 – Alteration or Extension: *Special permit required* to alter or modify a non-conforming structure.

Dimensional Requirements

	Required	Existing	Proposed	Finding
Side Yard Setback	10 feet	10 feet	6 feet	<u>Special Permit*</u>
Front Yard Setback	15 feet	23.9 feet	23.9 feet	<u>Complies</u>

*Under Section 5.43, the Board of Appeals may allow by special permit the substitution of other dimensional requirements for setback requirements if counterbalancing amenities are provided.

Mr. Shepard said that the Planning Board was not opposed to this application for a new side addition. The site is limited as to its expansion options because of the steep change in grade, and the addition is not likely to negatively impact neighboring properties. The addition is simply designed, and the applicant has agreed to install an appropriate landscaping treatment to partially

screen the addition and replace existing landscaping that would likely be removed with this proposal. The Board agreed that hardiplank clapboard siding would be appropriate for this addition, and the addition's details, such as window trim and roofline details, should be defined more specifically in plans before the issuance of a building permit. Mr. Shepard said that the Planning Board recommended approval of the proposal and plans, titled "275 Tappan Street," prepared by Qun Wu, and last dated 3/25/2008, subject to the following conditions:

1. Prior to issuance of a building permit, a landscaping plan indicating all counterbalancing amenities, which should minimize the side view of the new addition, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, plans indicating final façade details, including window trim, hardiplank clapboards and roofline details, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit the following to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan prepared by a registered engineer or land surveyor; 2) final elevations of the addition, prepared by a registered engineer or registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Michael Shepard, Building Commissioner, delivered the comments from the Building Department. He said that the existing deck, to be removed as part of the project, is in poor condition and that the Building Department is supportive of the conditions recommended by the Planning Board.

The Chair asked the petitioners if they understood that should the Board grant the suggested relief that they would be subject to the conditions required by the Board. Ms. Wu stated that they understood and requested clarification as to how quickly the work would have to be completed. Mr. Shepard said that should the relief be granted, that they would have one year to

obtain a building permit and begin work. He said that the Building Code required that the work commence within six months of the issuance of the permit and that the work be performed in good faith, continuously to completion. The Chair stated that if providing counterbalancing amenities are required for the relief, the petitioner is required to do the work and encouraged to do it as expeditiously as possible. Board member, Robert DeVries asked about the retaining wall(s) that the petitioners said they would like to redesign. Ms. Wu responded that they were primarily considering the retaining wall to the south of the driveway but had not finalized a plan. Mr. DeVries suggested that the retaining wall work be included in the counterbalancing amenities and that the conditions reflect that the design be subject to review of the Assistant Director for Regulatory Planning.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a Special Permit in accordance with Sections 5.43 and 8.02.2, of the Zoning By-law and makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. *Prior to issuance of a building permit, a landscaping plan and including without limitation, a retaining wall plan by a registered professional engineer (retaining wall on the south side of the driveway terminating at the garage) and all counterbalancing amenities, which should minimize the side view of the new addition, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.*
2. Prior to issuance of a building permit, plans indicating final façade details, including window trim, hardiplank clapboards and roofline details, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit the following to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan prepared by a registered engineer or land surveyor; 2) final elevations of the addition, prepared by a registered engineer or registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
the Board of Appeals


Jesse Geller

Filing Date: June 18, 2008

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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